

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WESLEY LAMONT MAXWELL,

Plaintiff,

vs.

No. CIV 02-0568 LH/LFG

CITY OF ALBUQUERQUE POLICE
DEPARTMENT, STATE OF NEW
MEXICO, CHIEF OF APD GIL
GALLEGOS, MARSHALL'S
DEPARTMENT STORE, T.J. MAX
DEPARTMENT STORE, OFFICER C.
DEFRATES, T. MASSART, M. GARCIA,
DETECTIVE M.A. SMITH, MANUEL
MARTINEZ, M. MOYA, SUE GURULE,
SANDRA VARGAS, PROBATION
OFFICER TOBY ORTIZ, JUDGE ANGELA
JEWELL, and UNKNOWN NAMED
ASSISTANT ATTORNEY OF
BERNALILLO COUNTY,

Defendants.


MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendant City of Albuquerque Police Department's Motion to Dismiss Plaintiff's Complaint Against It (Docket No. 11), filed August 14, 2002. The Court, having considered the brief submitted by Defendant and otherwise being fully advised, finds that the motion is **well-taken** and should be **granted**.

This case arises out of the arrest and detention of Plaintiff on charges of shoplifting and related parole violation. The gravamen of Plaintiff's complaint is that his civil rights were violated by members of the Albuquerque Police Department ("Police Department") and other defendants. Plaintiff has named the Police Department itself as a defendant. The Police Department has moved to dismiss the claims against it because, as an administrative department of the City of Albuquerque, it is not a suable entity. The Court agrees.

The Police Department is an administrative department of the City of Albuquerque. "When a police department is an integral part of city government and merely the vehicle through which government fulfills its policing function, it may not be sued as a separate entity." *Flores v. City of Albuquerque Police Dep't*, CIV No. 92-046 LH/LFG (Memorandum Opinion and Order, entered May 28, 1993) (citing *Martinez v. Winner*, 771 F.2d 424 (10th Cir. 1985), *vacated on other grounds*, 800 F.2d 230). Because the Police Department is merely a part of the Albuquerque city government, it lacks a legal identity apart from the City, and it is not a proper party.

IT IS, THEREFORE, ORDERED that all claims against the City of Albuquerque Police Department are **dismissed with prejudice**.


UNITED STATES DISTRICT JUDGE